P. F. 68 of 97

G. R. S. IX-5]

Previous references. 1897-1898

191

(L. R.)

File No. 108 of 97

Serial Nos. 1—6

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—6

Major ~~Part~~ B for March 1898.

SUBJECT.

Appeal of Chalavadiya regarding the Shanbhogi of Mahadevapur, Nelamangala Taluk.

Countermarked MK.

W D 1250—GPB—30,000 - 28-1-19

Inserted BSB

171

Appeal no 2 of 1896-97

Appellants — Shanbhog Bhelimaya and his son Sreekantiah of Motagamahalli, Nagar Taluq, Bangalore district.

This is an appeal against the decision of the Dy. Coms of the Bangalore district in the Rev. appeal no 3 of 1896-97 confirming the decision of the Asst. Coms that Nanjappa son of Shanbhog Ranjundiah is entitled to recover from Bhelimaya, Sreekantiah, & Nanjappa, the Shanbhogiki office of Mahadevapura Linganahalli, Kadakanahalli and Bevina marada poliga of Nelamangala Taluq

together with the Inam
lands attached thereto
on payment of the
mortgage amount.

The Shanbhogiki 1825–26 ——— {135–145} ?
Office of Mahadevapura, Ex. 8.
Kadakurubahalli, Ringa-
nahalli & Seemamarada
poliya together with Inam
lands & houses attached
thereto was sold to
Ranjappa son of Bheleraya
who was the grandson
of Narayya of
Molagondanahalli for
10 Varahas by Ranjudappa
son of Appajiddi Hatti
who was the grandson
of Narambhatta.

Ranjappa Shanbhog 1832–33 ——— (136) ?
of Molagondanahalli Ex. 9.
mortgaged the above-
mentioned Shanbhogiki
Office together with the
Inams attached thereto
for 50 Varahas to Ranjappa
son of Narasiyya-aru
of Palakanahalli

But the mortgage deed 1835–36 ——— (113) ?
seems to have been Ex. A.
transferred to Timmal
Rayan of Amanibalu
by whom the amount of the

mortgage was paid to
Ranjappa (son of Narasi Reddy)
& his nephew (brother's son)
Narasi Reddy.

(114)$_7$ —— 1835—36

Ex. B.

Ranjappa and his nephew
Narasi Reddy have borrowed
an additional sum of
21 Varahas mortgaging
the same Shanbhogike
Office to Timmal Rau.

(118)$_7$ —— 1835—36

Consequently Timmal
was ordered by the
Amildar to look after
the duties of the Shanbhog
of the above mentioned villages.

(128)$_7$ 15-8-1855 — This is a partition deed & does not refer to the Shanbhogike Office of the villages under dispute

Raghavendra Rau
son of Timmal Rau
received Rs 70 from
Chelluraya son of
Ranjappa of Motagondanahalli
towards the redemption
of the mortgage & gave
a receipt for the same.
But the full amount was
not paid up.

(129)$_7$ —— 6-2-69

ex. 1

Ranjunadia son of Shanbhog
Narasappa of Lakkenahalli
has executed a
Karar in favar of
Chelluraya son of
Ranjappa of Motagondanahalli
to the effect that

(134)$_7$ —— 5-3-69

ex. 7.

bhelavaya might get his name registered as Shanbhog of ~~the villages~~ Mahadevapura & other villages & that he had no objection to the same.

Ranjandiya has written 6 — 3 — 69 —— (116) 7
a letter to Raghavendra Rao Son of Viranal Rao stating that he had no objection to Bhelavaya's appointment as Shanbhog.

Raghavendra Rao gave a receipt to Bhelavaya to the effect that the whole amount of the mortgage (Rs 130) was received by him.

Bhelavaya thereupon 13 — 6 — 69 —— {121 / 122} 7
requested the Amildar of Hulamanya Lq. to appoint Sreekanta his son as Shanbhog of Mahadevapura & other villages.

The Amildar took 24 — 7 — 69 —— (120) Ex. D.
down the following deposition of Bhelavaya — {116} 7
"The Shanbhogship Office of Mahadevapura & other villages was mortgaged for 7 varshas in the year Jaya. It was lately redeemed

There are no claimers to this office except my brother Channappa & myself. I have requested to appoint my son Sreekantia as Shanbhog my brother is present here & he has no objection to my son's appointment.

(128) 7 — 24-7-69 Ex. 11

Channappa in his deposition before the Amildar has given his consent to the appointment of Sreekantiah as Shanbhog.

(166) 7 — 5-8-69

Thereon the Amildar reported as follows —

Bidaraya says that the Shanbhogship of Mahadevapura & other villages was mortgaged by his father to Raghavendra Rao & was lately redeemed. He requests to appoint his son Sreekantiah to the Shanbhogship office. He says that there are no claimants except his brother who has given consent to the appointment of Sreekantiah. Further Bidaraya says that Rajappa whose name is in the register as Haldar is his father. The Shirastedar

Ex. K.

says that Sheikantah is competent to do the duties of Shanbhog."

The Amildar was ordered to issue a notice requiring the claimants to put forth their claims within one month and then submit a report on the claims of persons so forthcoming

Accordingly the notice was issued. 2—11—69 ——— (140)

On the report of the Amildar Sheikantah was appointed Shanbhog. 25—10—69 ——— (141)

Ranjappa son of Nanjundiah submitted the following petition to the Dy. Comr — That the hereditary Shanbhogship office of Mahadeswara, Lingenahalli, Kadalekaimahalli and Benniamarada polliga & the Inams attached thereto. The said Office & the inams were mortgaged by my grandfather Ranjappa to Raghavendra Rao the father of 3rd & 4th defendants. in Jaya year (1835-36) & are in the enjoyment of the mortgage. The 1st & the 2nd defendants are now doing the duties of Shanbhog on

14—12—92 ——— {16 & 17}

Note—
Plaintiff — Ranjappa
Defendants — 1 Lakshmanaya
2 Sheikantah
3 Hanumantha Rao
4 Shama Rao.
5 Ranjappa.

Vide — {12th—67} Genealogical Table is produced.

behalf of the Mortgagee. But the defendants are not the holders of the Office of Shanbhogi during the famine of 1876 when I was about 7 years old my father Ranjindappa left this country & I was subsequently died. Consequently left to the care of one Ramachandra Rao. I am now competent to do the duties of Shanbhog. I am ready to settle the accounts if anything is due by me to the 3rd defendants. I have been urging the defendants to restore the Office to me for the last one year. But they did not comply with my request. I pray that the Office of Shanbhog of Mahadevapura & other villages may be restored to me with Court Costs."

Thereon Summonses were issued & served on the parties & their witnesses concerned in the case.

Before the hearing of the case the following statements were submitted by the 1st & 2nd defendants—

6 / The allegations made by the plaintiff are false.

2 The villages of which the Shanbhogiki Office is in dispute were acquired by Ranjimallappa who was the Ancestor of the plaintiff.

3 The said Ranjimallappa sold the Office of Shanbhogi to Ranjappa the father of the 1st defendant & Timmappa the 2nd defendant; in parthiva year. But Ranjappa the father of the 1st defendant mortgaged the same office to Ranjappa the uncle of "Dayan" of the plaintiff in Nandana year.

4 Ranjappa the mortgagee transferred the mortgage to one Virumal Rao in Vijaya year.

5 The 1st & 2nd defendants who are the Kaledars, redeemed the mortgage, having paid the full mortgage amount to Raghavendra Rao, son of Virumal Rao in Vibhava year & since then have been in the enjoyment of the Office of Shanbhog of the said villages.

6 The plaintiff has no claim for the said

Office of the said villages. The 1st & 2nd defendants object to all the statements made by the plaintiff.

The case was tried before the Addl: Comr of the Bangalore District & 7 witnesses were examined for the plaintiff.

(97) 14-5-96

1st witness Channigarayappa deposed as follows — I do not know the plaintiff. I know Chelluraya & Seetakantiah the defendants. Chelluraya is my cousin & Seetakantiah is his son. No member of my family enjoyed the Shanbhogike of Mahadevapur &c. in Nelamangala Talug. The Patkal executed between my father and my uncle is the father of Chelluraya has no reference to the Shanbhogike of Mahadevapur &c.

2nd Witness Karaemba Khatta deposed as follows — "I know the plaintiff & his father. I know also the uncle of the plaintiff. I am a parochial to the plaintiffs' family. Plaintiff's father is Kadjuadaffa, Grandfather is Karasidyan ara, great-grandfather is Karasidyan ara. I know that the plaintiff's father was doing the duties of Shambling & Mahadevaswami &c. I had once ~~followed~~ accompanied plaintiff's father to Tirumal Rao's whowas the grandfather of the 4th defendant, & they spoke about the redemption of the mortgage." Huche Sowda

14-5-94 (98)

3rd Witness deposed as follows — "The 2nd defendant Sreekantiah has been looking after the duties of Shambling & Mahadevaswami & the villages for the last 25 years. ~~Before this time~~. I know the 4th defendant. His father Raghavendra Rao

14-5-94 — (99)

had appointed a
gumasta ~~xxxx~~ to
do the duties of Shanbhog
before Sreekantiah was
appointed. I do not
know on what right
the 2nd defendant has
been doing the duties
of Shanbhog of Mada-
dersapura & the villages
for the last 25 years. I do
not know who the proper
heredar of the Shanbhogi
Office of Kadalesana-
halli is.'

(100) — 16-5-94.

6th witness Lingegowda
deposed as follows —

I know that the
plaintiff is the son
of Lakkanchalli
Shanbhog Hanjundiah.
I know also the 1st & 2nd
defendants. The 2nd
defendant has been
doing the duties of Shanbhog
of Madadersapura &
other villages for the last
14 years. Before Sreekantiah
Lakshmana Rao the
gumasta of Raghavendra
Rao was doing the
duties of Shanbhog.
I do not know the
proper heredar of the
Shanbhogiki office.'

5th witness Shanna Subbaya's 28-4-96 (101)
deposition is as follows—
6 The first defendant
is my brother. We are
divided & there is a
Fardeal of the year
1855. In the Fardeal
there is no reference
to ancestral Shanbhogiki
office. The Shanbhogiki
office of Mahadeshwara
Kotter village was
declared not to have
belonged to our family
by my sons in Shanmiyka-
Rayappa. I also
believe that the Shanbhogiki
office of Mahadeshwara Kotter village
was not earned by
by my father. I have
not executed any
document in favour
of the 1st defendant,
stating that I have
resigned my claim
to the office of Shanbhogiki
of the villages under
dispute.'

6th witness Shanna Rao 2-6-96 (102)
(the 6th defendant) deposed
as follows— The disputed
Shanbhogiki office & the
Inam lands attached thereto

were mortgaged to my
grandfather Viranal-
Rao in Jaya year for
71 Varahas by Ranjappa
& his nephew Narasinga-
varu. The mortgage is
not-yet redeemed. The
fact that the mortgage
deeds are with me & the
Barabaluti register
prove my statement. I
have also produced
herewith the copies of
Barabaluti register extracts
of 1863 & 1863. My father
Raghavendra Rao had
appointed a gumashta by
name Lakshmana Rao,
to do the duties of Shanbhog
of Mahadeshpura &
other villages. Of late
subsequent the 2nd defendant
has been doing the duties
of Shanbhog in place of
Lakshmana Rao. Subsequently
has got the possession of
the Office by fraud.
The statements of the
1st & 2nd defendants are
false. My father did
not know Canarese.
Yet the signature in
the receipt for the redemption
of the mortgage is not a true
one.

Ex. A.B.

Ex. C.D.

Ex. 1

7th witness Udalawaddiyar as follows — The Shanbhogiki office of the villages under dispute at first had belonged to Ranjandia son of Appajibhatta. Ranjandia is the dayadi of the plaintiff. The office under dispute was sold to Ranjandia my father for 80 varahas. Since then the office is in our enjoyment. My father mortgaged the said office to Ranjappa the grandfather of the plaintiff for 53 varahas. Ranjappa after one year transferred the mortgage to Tirumal Rao. mortgaged the same to Tirumal Rao of Nelamangala. On the demand of Raghavendra Rao son of Tirumal Rao I redeemed the mortgage. At the time of redemption Raghavendra Rao said that the mortgage deeds were missing. On my request to appoint my son Shanbhog of the villages under dispute the Amildar after enquiry

Ex. E.

& by referring to Bara-
balute Register appointed
Sreekantia Shanbhog.
Since then he has been
doing the duties of
Shanbhog. ~~But his~~
~~Butchaun order was~~
But no order was
received by ~~the~~ Srikantiah
from the Amildar,
as regards his appoint-
ment. Raghavendra
Rou did not give the
mortgage deed to me.
My brother Bhimappa
& myself are divided.
But in the Farikat
there is no reference
to ~~the~~ Shanbhogiki office
of the villages under
dispute as it was
mortgaged. I do not
know the ex. A & B. were
the mortgaged deeds
which were alleged to
have been lost by Ragha-
vendra Rou. Ex. 3 and
9 when examined by
the Amildar, ~~they~~ were
not signed by him.
Lakshmana Rou as gumasta
of Raghavendra Rou was
doing the duties of Shanbhog.
Sitarama Rou the 4th defendant
has given his second deposition

(164) 23-3-95

as follows — 'My father
~~By~~ knew only the Canarese
handwriting. But ~~he was~~ he
used ~~to put his signature~~
many characters to
put his signature. The
signature in ex. J. is
not my father's. The
mortgage amount was not
received either by my
father or myself. The
2nd defendant Seebantah
paid a certain amount
of money to my father on
two occasions, two or
three years before he
died. I hear that four
years back Seebantah
the second defendant
was appointed Shanbhog
of the ~~disputed~~ said villages.
I am the hakdar of the
Shanbhogike of the ~~disputed~~ said
villages by right of mortgage.
The mortgage may be
redeemed. I have not
received the mortgage
amount up to ~~the amount~~ time
from the hands of the
plaintiff.

Also 6 witnesses
were examined for the
1st defendant Bheemaya.

(105) — 15-4-94 The 1st witness Lakshmi-narasayya deposed as follows:— 'till 1869 Lakshman Rao the grandfather of Raghavendra Rao was doing the duties of Shanbhog of Mahadeva-pura and other villages. The 1st & 2nd defendants were not doing the duties of Shanbhog of the said villages before 1869.'

(106) — 2-6-94 The 2nd witness Achaya deposed as follows— 'I know that 26 years back Lakkenahalli Ranjundiah was doing the doing the duties of Shanbhog of Mahadevapura & other villages. Now the 2nd defendant is the Shanbhog of the said villages. I do not know that Raghavendra Rao was doing the duties of Shanbhog.'

(107) — 8-6-94 The 3rd witness Ranjundiah deposed as follows— 'I know Lakkenahalli Ranjundiah the father

of the plaintiff. Stand.
know ~~not~~ whether he
was the headman of the
Shanbhogike of Mahadevapura
& other villages. Lakkana-
halli Ranjundiah took
me some 30 years back
to Nelamangala & executed
a Karar there to redeem
the mortgage of the Shanbhogike
of Mahadevapura & other
villages from Timma Nora.
This Karar was placed
in the possession of Sreekan
I have put my signature
to the Karar. Ranjundappa's
uncle, Nanjappa by name,
was 'illiterate.'

The 6th witness Seshagiri
Iya deposed as follows—
' For the last 20 or 25
years Sreekantiah has
been doing the duties of
Shanbhog of Mahadevapura
& other villages. Before
Sreekantiah ~~was~~ Raghavendra
Rao the father of the 6th
defendant was doing
the duties of Shanbhog.'

8-4-96 ——— (108)

The 5th witness Narasimha-
Iya deposed as follows—
' My father was a Shekdar

6-6-96 ——— (108 4/)

Ex 1, 2, and 3 are in

my fathers handwriting.
I am no relative of
the 1st & 2nd defendants.
I do not know who
the plaintiff is

(109) — 6-6-96

6th Witness Sreekantaiah
of Sindekoppa deposed as follows —
a Motagondanahalli
bhelavaya borrowed
Rs 50 from me about
15 years back & passed
the document of the
Shanbhogike of Nidu-
devanuru & other villages
of the year parthiva (1854)
& the mortgage deed
written by Motagondana-
halli Shanbhag transfers
in favour of Ranjappa
son of Lakkenahalli
Narasidyanarappa
in the year Raudra (1832-33)
I have produced the
documents here."

Vide asstt: Com.rs Ord
of 30-6-1896.

The Asstt: Com.r
ordered & decreed that
that the plaintiff be
entitled to recover
from the defendants
1. 2 & 5 the Shanbhogike

office of Mahalekarajara,
2 Kinjanahalli, 3 Kada-
kamahalli, 4 Beesina-
manadahotiga of Hala-
mangala Taluq, together
with the Inam lands
attached thereto with
Court Cooto.

Before the decision
the following issues were
laid down & tried.

(1) Had plaintiff a Cousin
by name Kanjundappa,
and did the Shanbhog's
office in dispute fall
to the said Kanjundappa's
share?

(2) Did the said Kanjundappa
sell the office in dispute
in the year Parthiva to
1st defendants father
Kanjappa?

(3) Did the 1st defendants'
father Kanjappa mortgage
~~mortgage~~ the office in
dispute to plaintiff's
Grandmother Kanjappa
in the year Nandana?

(4) Had 1st and 2nd defendants
any right to redeem the
mortgage & did they
redeem it in the year
Vibhava?

(5) Is plaintiff the headar to the office in dispute or defendants 1 & 2?

(6) Is plaintiff entitled to all or any of the relief sought for?

(7) Is plaintiff's suit barred by limitation on account of adverse possession?

In the Dy. Comm's Court Bangalore.

Appt's (defts) 1 Chelluraya 2 Sreekantiah V.S. Respt (Plaintiff) Hanjappa

Thereon Chelluraya & Sreekantiah preferred an appeal to the Dy. Comm against the order of the Asstt. Comm on the following grounds.

(1) The lower court has erred in holding that the suit is not barred by limitation.

(2) The ~~applicants~~ appellants have satisfactorily proved their case.

(3) The Respondent's in collision with 3rd & 4th defendants has brought the suit

(4) It is false that the Respondent (plaintiff) or the defendants 3 and 4 had been in possession of Shanbhogi office or the Inam lands attached thereto since 1869. There is no evidence to show that the appellants were gumastas for defendants 3 and 4 and their father. On the Contrary the appellants have been enjoying the shanbhogi &c. in their own right for upwards of 12 years and the suit is therefore barred by limitation.

(5) Some of the witnesses for appellant who were not examined by the lower court may be examined now.

(6) The mortgage alleged by the plaintiff is not true & the decision of the lower court is against law, evidence & the probabilities of the case.

Vide — Dy. Comrs judgment of 26-5-97 in the Rev. appl. No 5 of 1896-97

But the Dy. Comrs confirmed the decision of the asstt. Comrs on the following grounds — That the genealogical tree produced by the plaintiff was correct & showed that the plaintiff & the 1st, 2nd, and the 5th defendants belonged to the same stock. That the 3rd & 4th defendants proved that the hag in suit belonged to and was mortgaged by the plaintiff's grandfather's brother. ~~to prove~~ That the previous sale set up by the defence was not proved. And that the Ex-S was suspicious.

1 Bhimaya } Appellants
2 Seethamma } & defendants.

1 Nanjappa } Respondent & plaintiff

2 Hanumanthappa } Respondents
3 Shama Rao } & defendants

Now Bhimaya & Seethamma have brought an appeal against the above decision of the Dy. Comrs of the Bangalore District.

The appeal grounds are

1 That under the circular issued by the Comrs of the Mysore

province in the year 1835, the plaintiff's father Wanjinolish lost the right or hag to the Shaubkogee if any.

2 That when the father loses the hag or precluded to claim, the son cannot claim or estopped to claim the Shaubkogee.

3 That the suit is barred by the Statute of limitation as the Shaubkogi in question was not at any time in possession and enjoyment of the plaintiff's father, and the possession & enjoyment of the Shaubkogee, by the appellants since 1864 in their own right is adverse to the plaintiff's hag, if any.

4 That the suit is bad and not maintainable as the plaintiff failed to bring the same to establish his right within three years from the time

he attained his majority
The plaintiff is now
35 or 40 years old.

5. That the lower court failed to ~~identify~~ ~~summon~~ call for the original Govt. records to identify the hand-writing & signature of Raghavendra Rao the deceased father of defendants 3 and 4.

6. That the lower Court erred in not examining the witnesses summoned by appellants.

7. That the lower court failed to examine the plaintiff & the 3rd defendant though prayed for.

8 That the lower Court is wrong in disbelieving the exhibits (P. 1, 2, 3, 7, 10, 11 & 12)

9. That the Lower court is wrong in believing the exhibits A & B which are in fact dead papers

as per exhibits 9 and
other papers.

10 That the plaintiff
failed to prove his
allegations of the plaint-
and did not even
go to the witness box to
state the facts on oath.

11. That the enjoyment
of Shambhogi in dispute
by the father of the plaintiff
as observed by the Courts
below ~~are~~ is against
the existing Govt. records.

12. That no fraud was
or proved
alleged by the plaintiff.
While this is the case that
the lower Court is wrong
in stating that the appellants
now hold the property
by fraud & their possession
is not adverse to the
plaintiff.

13 That the lower Court
is wrong in law in
granting the relief not
prayed for.

14 That the 6th defendant
is the colluding party to
the suit.

15 That the appellants

obtained the Shambhoge
hag in question from
the Registerder Raghu-
vendra Rao for having
paid him valuable
Consideration or sum
of Rs 203-4-4 (vide ex. D)
in 1869 and got the
2nd appellants' name
registered as Shambhog.
Since then or upwards of
27 or 28 years appellants
are in possession &
enjoyment of the ~~land~~
Shambhoge in question.
On the above grounds
the appellants pray
that the judgments of the
lower Courts may be
Cancelled.

MV.
10/12/97

Before the Government of Mysore.

Appeal No. 29 of 1897-98.

Appellants.	Vs.	Respondents.
(1) Subbanna (2) Sri Krishna (1st & 2nd Defts.)		(1) Ranjappa (Plaintiff) (2) Hanumanta Rao (3) Shama Rao (Defts 3 & 4)

Subject:- Dispute regarding the Shanbhogi of Gurladeripur & other villages, Nelamangala Taluk.

List of papers in English

(1) Asstt Comm's judgment
(2) Dy Comm's
(3) Appeal Petition.
(4) Official Memorandum
(5) Deputy Comm's letter.
(6) Genealogical table.
(7) Precis.

Mortgages aforesaid against
Cannot be impeached.

The relief sought for is the
recovery of the right of Shaubope
which is now in the possession
of the 2nd Defts and which the
2nd Defts obtained in 1869.
Both the Defts and his agent
were wrong in viewing the suit
as one for the redemption of a
mortgage - The mortgagee had
no possession and no relief
could possibly be obtained from
him or his heirs. The 1st and
2nd Defts who are father and
son set up an independent
right of their own and the
possession based upon that right
which was adverse to the Pltf
admittedly began in 1869.
There can be no doubt that the
cause of action as against the
Defts 1 & 2 began in 1869 and
as the suit was brought in 1892
that is by way more than 23 years

after such cause accrued
is clearly barred.

It is not denied that the
D's father was alive in 1869
The D's states in the plaint
that his father died in Bahadhanya
1878-79 and therefore the period
of limitation which began to
run from 1869 could not be
suspended in favour of the D's -
has been held that
It is alleged there was fraud
through nothing is said of such
fraud in the plaint. The facts
constituting such fraud have
not been set out. At the most
it is said that the 1st [illegible]
falsely represented to the mortgagee
Raghavendrachar that he was
the mortgagor's representative.
But the proceedings adopted at
the time are filed with the
record & they show that every
thing was properly done and
was above board - The
Amildar of the time held a full
investigation into the matter and
he issued a proclamation calling

upon all claimants to bring forward their objections to the registry of the 2nd Defdt. No one came forward. On the other hand Pltfs further executed a Karar admitting the claim of the Defts and agreeing to their redeeming the mortgage of Ram Raghavendra Rau. This is exhibit 7. It might now state that this is a suspicious document. There are no valid reasons to think so. The Amildar did not deal with this matter on his own responsibility. He reported the whole affair with dry cowl (vide original report in the record) and his order was obtained. It is unreasonable to hold that there was no redemption of the mortgage at all. For if this by the Defts were true Raghavendra Rau would not have been a consenting party to the transfer of possession. That is proved by the Shahagiri No 7 of Acchaffa Rau - yet the Defts have not it! There is no reason to hold that this document

held back & disbelieved

The publicity with which such transactions are conducted in a Taluq Cutchery, coupled with the facts that a proclamation calling upon claimants was issued and that the exhibit No 7 which has been proved was executed by the Plff's father shows clearly that this transfer of possession had come to the knowledge of the Plff's father - The inquiry resulting from fraud was thus within the knowledge of the Plff's father through whom the Plff claims - He cannot therefore obtain an extension of the statutory period of limitation under Sec 18 of the Act. On the whole therefore there seems to be no reason to accord any exceptional treatment which is governed by the ordinary rule - meant by this rule of limitation

the appeal accrued in 1869 and the suit which was filed in 1892 must be held barred and dismissed.

To Abdul Rahim Saheb Esq
Khan Bahadur

15.3.98

Draft Mor

15.3.98.

15/3/98

Received from the
2nd Councillor.
9.15. Am
16.3.98.

Certain / The bomb marked
I do not recognise where newspaper
this is it because 8-10 years
to remove another sheet from the
I did not mislaid / the 666 - this was
all enquiries known to 666's father
be removed based - husband
did in order the argument the
stated as remark will be
required for incomplete - that
2nd Councillor to omission is
16/3/98 this led upon
I have no
Send this letter to Sch 16.3.98
for reconsideration

Enclosures
(1) Memo of appearance
(2) Memo of appeal in duplicate

1897

(1)

189

No. 586 29 9-98

Name of Petitioner Chaluvaiah and Srikantaiah

Village
Taluk } Bangalore
District

Date of Arzi 16-8-97

Date of Receipt 16-8-97

Date of Disposal

No. of Enclosure two

ABSTRACT.

Appeal against the order of the Deputy Comr Bangalore dt in Rev. appeal No 5 of 1896-97 dismissing the appeal with costs praying for recovery of the Shanbhogi office of Makadenapura Lingenahalli Kadakandahalli and Benniganahalli Palya village, Uttelamangala Taluk

Both the appellants appealed against the order of the lower Court

23/8/97

Dismissed (1) Memo of appearance
(2) Memo of appeal in duplicate

1897

Direct petr to produce the documentary evidence of the Court of first instance (i.e. the Asst Comr)

28/8/97

L. R. 108-97-1

Copy of Enclosure not filed

Petn time barred

1) In time

2) Stamps sufft

3) Appeal against the decree dismissing the plaintiff's suit

Judgment & decree dismissing the suit of the plaintiffs in favour of the defendants

Plaintiff - respondent

4) Court fee sufft

It appears that the three villages Lands were mortgaged by the appellants to the plaintiff - respondent's predecessors in 1834 & 35

That the plaintiff - respondent filed a suit for recovery in 1892 and obtained a decree in 2nd Civil Judge's Court

Rd 7.30 Pm 6.11.97

Call for records from the original Court

Order sent 11/11/97

Petn 1.30 Pm 14.9

Petition Branch Court Fee
10 rupees Court Fee
Rs. 10 Rupees Collected 16/8/97

Received from the Registrar
B.K. 16/8/97

MYSORE COURT FEE

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. NO. 506 C
DATE 16-8-97

In the Revenue Chief Court
of Mysore.

Second Appeal No. 27 of 1897-98.

1. Chaloosiah
2. Seeeenniah
Both resident of Kaka
= dasapuram Nella
= nagaram Taluk

Appellants and defendants Nos. 1 & 2.

~~444~~

1 - Nanjappa
residing in Kasaveri
Revenue Chief Court
Bangalore

2. Hanoomanthappa
Reg. Gomasta. Nella
= nagaram Taluk.

3. Shamappa
Servants from Moon
= iffs Court - Nellanag
= aram.

Respondent
&
Plaintiff

Respondents
&
Defendants 3 & 4.

Applicants above named beg to submit the appeal to this Honorable Court against the judgement in Revenue Appeal suit No. 5 of 1896-97 on the file of the Deputy Commissioner Bangalore District dated 20th May 1897 under the following grounds.

In the Seychelles
13th August 97.
Rawanmaya Bangaru

1. That under the Circular issued by the Commissioner of the 2 Bazaars Province in the year 1835 the Plaintiff's father Muyoondian lost the right of Ariel to the Chankage if any. ———

2. That when the father lost the Ariel or precluded to claim, the Son cannot claim or estopped to claim the Chankage. —

3. That the Suit is barred by the Statute of Limitation as the Chankage in question was not at any time in possession and enjoyment of the Plaintiff's father and the possession & enjoyment of the Chankage by the Appellants since 1809 or their right to accrue to the Plaintiff's Ariel if any. ———

4. That the Court is not satisfactorily as the Plaintiff failed to bring the case to establish his right within 3 years from the time of his attainment of Majority as his age is about 35 or 40 years. ———

5. That the Lower Court failed to summon the Government Original Records to identify the hand writing and signature of Raghavendrayen, deceased father of defendants 3 and 4. ———

6 That the Lower Court erred in not examining the witnesses summoned by Appellants. ———

7. That the Lower Court failed to examine the Plaintiff and the 3rd defendant who prayed for often. ———

8. That the Lower Court is wrong in disbelieving the Exhibits P. P. 1. 2. 3. 4. 5.

(10, 11 & 12.)

9. That the Lower Court is wrong in delivering the exhibits A.2/3. which are in fact dead papers as the exhibits and other papers.

13. That the Plaintiff failed to prove his allegation of the claim or even the Plaintiff had not gone into the witness box and stated the facts on oath

11. That the assessment of damages in dispute by the father of the Plaintiff as decreed by the Court below are against the existing records of Government.

12. That no fraud has been alleged by Plaintiff or fraud has been proved by Plaintiff while in the Lower Court is wrong in stating that the appellants "could hold the property by fraud & their proceedings are adverse to the Plaintiff."

13. That nothing is due to the Mortgagee Rent A & B. while the Lower Court is wrong in decreeing that the Plaintiff is pay the defendants 3 & 4.

14. That the Lower Court is wrong in law in granting the relief not prayed for.

15. That the production of exhibits for Plaintiff by the defendant and his manner of deposition given by clearly shows that the defendant is the fraudulent and colluding party to the suit

16. That the appellate Court entirely failed to notice the grounds of appeal and records in the case and the reasons assigned therein is improbable.

17. That the learned Judge of the Lower Court in his Judgement (stating, "that the "auditor certainly failed in his duty" "in not examining Raghavendra Row" "and he has further exhibited his want" "of good faith in the whole transaction" "by not only notifying the claim brought" "by the 1st defendant also he was ex=" "pressly ordered by the deputy Collector to do so.") is against the Procedure and against the exhibit No 12 and other papers. ———

18. That the Judgement of the Court below are against the weight of Records, evidences, probabilities of the case and of Law. ———

19. That even for argumentary sake if admitted that the Plaintiff is one of the members of the family of Narasidavoor (as per genealogical tree herewith submitted) or Nanjundiah who has sold the Suit to the Landlord as per said Cowle, and the mortgagee Raghavendra Row, don of Cancellation became sole Trustee to the Landlord in question and accordingly the authority recognized him as Trustee (Raghavendra Row) name of Registering his name as Registered Landlord and the duties performed by the Succession of Raghavendra Row from the year 1836 to 1869 that is from 33 years to 66 Yrs. ———

20. Leaving all the documentary and oral evidences of the appellants, that the appellants obtained the Landlord

L.R. 108-97-2

OB.0250895

17-11-97

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

(3)

L.R. 108-97-3

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition No. 506 dated 6-8- received at the Dewan's Office from the Assistant to Superintendent Nelamangala Taluk, appealing against the order of the Deputy Commissioner, Bangalore District regarding the transfer office of Kadadenahalli Patel

is forwarded, together with its enclosures, to the Deputy Commissioner of the Bangalore District for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

2. The petition with its enclosures should be returned.

By order,

for Secretary.

BANGALORE,
17-11- 1897.
17

A Bundle
26-11-97 Ed. D.S.

Refd putter

AK
27/11/97

Submitted
AK
27-11-97

3767
E. 283

97-98

(4)

From The Dy Commissioner
Bangalore District

To The Secretary to the Govt
of Mysore,
Genl & Rev. Departments.

Dated 22nd November 1897.
Despatched 23rd Do ——
Received 24
General No.
D No. 678

Enclosure No. Record

Secy's Official Memo No. Pet 629
of the 17th November 97.

Submits entire record connected with the Shanbhogi of Inahalli Kempura & other villages in the Nelamangala Taluk.

The civil suit has been ordered to be instituted
1) Bring up for posting.
2) There are the necessary records: a precis shd be prepared
27/11/97

L.R. 10-8-97

Noted for Secretary
27/11/97

Petition Branch
27/11/97

Refd putter

AK
27/11/97.

Bangalore District.
Dy-Commissioner's Office.

D. No. 678.

Bangalore 22nd/23rd November/97.

En-greenth.

To,

The Secretary to the Government
of Mysore,
Genl & Rev. Departments.

Sir,

As required in your Official Memo No. Pet 629 of the 17th November 1897, I beg to send herewith the entire record connected with the Shamboji Gubbalapura and other villages in the Nelamangala Talk.

2. The enclosures of the docket under reply are herewith returned.

I have the honor to be,
Sir,
Your Most Obedient Servant
M Venkatarangiya
Dy-Commissioner.

mrs

Two drafts

Proceedings of the Court of Mysore

(6) Read:-
(1) Petition of Appeal No 506 A 28
of 1897-98 presented by Chelluvia
and Srikantaya of Shadarapur
Nelamangala Taluk, against the
judgment and decree of the
Dy-Commr, Bangalore, in Regr
Appeal No 5 of 1896-97. confirming
ing the decision of the Ist Grade
Asstt Commr, Bangalore district
in Regr Suit No 1 of 1896-95 on
the file of this Court, receiving
to the Plaintiff's Nanjappa entitled
to the ex Shanbhoga office of
Shadarapura & nine villages in
the Nelamangala Taluk.
(2) The records received with
letter No 4758 22-11-97 from the
Dy-Commr Bangalore district.

L.R. 168-97-S

x Plaintiff Nanjappa

Defendants
(1) Chelluvaya
(2) Srikantaya
(3) Hanumanta Rao
(4) Rama Rao
(5) Nanjappa

No 9136. 17.68-97 24/3/98

After hearing:-
The order appealed
against cannot be supported.
The relief sought for is the
recovery of the right of Shanbhoga
which

which is now in the possession of the 2nd Defts who obtained it in 1869. Both the Defendants and his sons were wrong in viewing the suit as one for the redemption of a mortgage. The Mortgagee had no possession and no relief could properly be obtained from him or his heirs. The 1st and 2nd Defts also are further and can set up an independent right of their own and the possession based upon that right which was adverse to the Plaintiffs admittedly began in 1869. There can therefore be no doubt that the cause of action as against the Defts (2nd) began in 1869 and as the suit was brought in 1892 that is to say more than 23 years after such cause accrued it is clearly barred

It is not denied that the Plffs father was alive in 1869. The Plaintiffs state in the plaint that his father died in Bhadhawa 1878-79. and therefore the period of

limitation which began to run from Sep could not be completed in favour of the Plff.

It has been held that there was fraud though nothing is said of such fraud in the plaint. The facts constituting such fraud have not been set out. At the most it is said that the 1st Defts falsely represented to the mortgagee Eshwar and that he was the mortgagor's representative. But the proceedings adopted at the time are filed with the record and they show that everything was publicly done and was above board. The Amildar of the time held a full investigation into the matter and he issued a proclamation calling upon all claimants to bring forward their objections

to

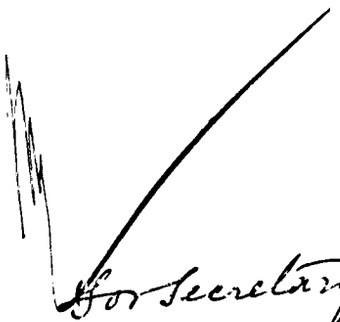
to the registry of the 2nd Defts.

None came forward. On the other hand Pltff's father executed a deed admitting the claim of the Defts and agreeing to their redeeming the mortgage from Raghavendra Rao. This is exhibit. The Dist Court states that this is a suspicious document. There are no valid reasons to think so. The Subdar did not deal with this matter on his own responsibility. He reported the whole affair to the Dy Com. (vide original report in the record) and his order was obtained. It is unreasonable to hold that there was no redemption of the mortgage at all for if this hypothesis were true Raghavendra Rao would not have been a consenting party to the transfer of possession. No 7 is proved by Venkatasubba son of Venkappa who wrote it.

There

There is no reason to impugn
this document. The publicity
with which such transactions are
conducted in a Sioux Outlook,
coupled with the fact that a
proclamation calling upon claim-
ants was issued and that the
Exhibit "A" which has been
was executed by the Cliff fac-
shows clearly that the attempt
of possession had come to the
knowledge of the Cliff faction. The
injury resulting from fraud
was thus within the knowledge of
the Cliff faction through whom
the Plaintiff claims. He cannot
therefore obtain an extension of
the statutory period of limitation
under section 18 of the Limitation
Act. On the whole therefore
there seems to be no reason to
regard any exceptional treatment
to this suit which is warranted by
the

the ordinary period of limitation. The cause of action first accrued in 1896 and the suit which was filed in 1898 must be held barred and dismissed.



For Secretary

Cite 2

Draft
Blen
1893.

12/10/98

To The Deputy-Commr, Bangalore
Draft with records.

Press copy prepared
Sent to Dy Comm
+ R. 3-200 BD 30/3

Press copy sent
30/3/98

26-3-98

Proceedings of the Government of Mysore, Petition, dated 24th March 1898.

READ :—

(1) Petition of Appeal No. 506—A. S. 29 of 1897-98, presented by Cheluvaiya and Srikantaiya of Mahadevapur, Nelamangala taluk, against the judgment of the Deputy Commissioner, Bangalore district, in Revenue Appeal No. 5 of 1896-97 affirming the decision of the 1st General Assistant Commissioner, Bangalore district, in Regular Revenue suit No. 1 of 1894-95 on the file of his Court, decreeing the plaintiff's right to the shanbhogi office of Mahadevapur and three other villages in the Nelamangala taluk.

Plaintiff.	Defendants.
Ranjappa.	Cheluvaiya.
	2. Srikantaiya.
	3. Hanumanta Rao.
	4. Shama Rao.
	5. Ranjappa.

(2) The records received with letter No. 678, dated 22nd November 1897, from the Deputy Commissioner, Bangalore district.

No. 9136—P. F. 68-97, DATED BANGALORE, 24TH MARCH 1898.

ORDER THEREON.—The orders appealed against cannot be supported.

2. The relief sought for is the recovery of the right of shanbhog which is now in the possession of the 2nd defendant who obtained it in 1869. Both the Deputy Commissioner and his Assistant were wrong in viewing the suit as one for the redemption of a mortgage. The mortgagee had no possession and no relief could possibly be obtained from him or his heirs. The 1st and 2nd defendants who are father and son set up an independent right of their own and the possession based upon that right which was adverse to the plaintiff, admittedly began in 1869. There can thus be no doubt that the cause of action as against the defendants (1) and (2) began in 1869 and as the suit was brought in 1892, that is to say, more than 23 years after such cause accrued, it is clearly barred.

3. It is not denied that the plaintiff's father was alive in 1869. The plaintiff states in the plaint that his father died in Bahudhanya 1878-79 and therefore the period of limitation which began to run from 1869 could not be suspended in favor of the plaintiff's.

4. It has been held that there was fraud though nothing is said of such fraud in the plaint. The facts constituting such fraud have not been set out. At the most it is said that the 1st defendant falsely represented to the mortgagee Raghavendra Rao that he was the mortgagor's representative. But the proceedings adopted at the time are filed with the record and they show that everything was publicly done and was above board. The Amildar of the time held a full investigation into the matter and he issued a proclamation calling upon all claimants to bring forward their objections to the registry of the 2nd defendant. No one came forward. On the other hand plaintiff's father executed a karar admitting the claim of the defendants and agreeing to their redeeming the mortgage from Raghavendra Rao. This is Exhibit 7. The Assistant Commissioner states that this is a suspicious document. There are no valid reasons to think so. The Amildar did not deal with this matter on his own responsibility. He reported the whole affair to the Deputy Commissioner (*vide* original report in the record) and his order was obtained. It is unreasonable to hold that there was no redemption of the mortgage at all, for, if this hypothesis were true, Raghavendra Rao would not have been a consenting party to the transfer of possession. No. 7 is proved by Seshagiriappa, son of Achappa, who wrote it. There is no reason to impugn this document. The publicity with which such transactions are conducted in a Taluk Cutcherry, coupled with the facts that a proclamation calling upon claimants was issued and that the Exhibit No. 7, which has been proved, was executed by the plaintiff's father, shows clearly that this transfer of possession had come to the knowledge of the plaintiff's father. The injury resulting from fraud was thus within the knowledge of the plaintiff's father, through whom the plaintiff claims. He cannot therefore obtain an extension of the statutory period of limitation under Section 18 of the Limitation Act. On the whole, therefore, there seems to be no reason to accord any exceptional treatment to this suit which is governed by the ordinary rule of limitation. The cause of action first accrued in 1869 and the suit which was filed in 1892 must be held barred and dismissed.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Bangalore District, with records.

Ent—H.A.B.

1897-98

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 24th March 1898

No. 9126 P. F. 38-97.

Dismissing the suit of Nanjappa of Mahadevapur, Nelamangala taluk, for recovering the right to the shanbhogi office of Mahadevapur and three other villages, on the ground that the suit is clearly barred by limitation.

M.G.O.P.B.—14-4-98—120

(5)

L.R. 108-97-6

ಸರ್ಕಾರಿ ಆಸ್ಪತ್ರೆ ಮೇಲ್ಮೈಯಿಂದ ಕರಡಿಕೊಂಡಿದ್ದರಿಂದ
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[illegible] 19-3-98

By Order

For Secretary.